

IN THE UNITED STATES DISTRICT COURT
FOR THE NORTHERN DISTRICT OF WEST VIRGINIA
Wheeling Division

SCOTT SONDA and BRIAN CORWIN,

Plaintiffs,

v.

Civil Action No. 5:22-cv-124

JAMES C. JUSTICE, II, GOVERNOR
OF THE STATE OF WEST VIRGINIA,

Defendant.

MOTION TO DISMISS

Defendant James C. Justice, II, Governor of the State of West Virginia, moves to dismiss Plaintiffs' Complaint in its entirety pursuant to Federal Rule of Civil Procedure 12(b)(1). Plaintiffs seek to enjoin an allegedly unconstitutional state law. Plaintiffs' claims, however, must be dismissed for at least two dispositive reasons: first, Eleventh Amendment immunity compels dismissal, and second, Plaintiffs are without standing to prosecute their claims against the Governor. At bottom, the Governor is not the proper party to this constitutional challenge and should therefore be dismissed. The bases for this motion are set forth more fully in the accompanying memorandum of law.

JAMES C. JUSTICE, II, GOVERNOR

By Counsel:

/s/ Andrew C. Robey

Michael B. Hissam (WVSB #11526)
Andrew C. Robey (WVSB #12806)
HISSAM FORMAN DONOVAN RITCHIE PLLC
P.O. Box 3983
Charleston, WV 25339
t: 681-265-3802
f: 304-982-8056
mhissam@hfdrlaw.com
arobey@hfdrlaw.com

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CERTIFICATE OF SERVICE

The undersigned counsel does hereby certify that on the 8th day of August, 2022, he electronically filed the *Motion to Dismiss* with the Clerk of Court using the CM/ECF system, which will send notification of that filing to counsel of record.

/s/ Andrew C. Robey
Andrew C. Robey (WVSB #12806)